IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 7462 of 1994

Between:

Mallela Mattaiah son of aged years

R/o Ponnur in Guntur District.

..... PETITIONER

AND

The Assistant Divisional Engineer,

Operation,APSEB, Ponnur, Guntur district.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Mandamus declaring the action of the respondent in issuing the demand for back billing pursuant to the inspection dated 24-7-1991 is illegal and without jurisdiction and consequently set aside letter No.ADE/O/PNR/ASO/F/D.No.230/94 dated 23-3-1994 and letter No.ADE/O/PNR/D.No.286/94 dated 7-4-1994 .

Counsel for the Petitioner: MR.B.ADINARAYANA RAO

Counsel for the Respondent: SMT.M.VINOBHA DEVI,STANDING COUNSEL FOR APSEB

The Court made the following :

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondent.

The petitioner herein, who is running a Rice Mill, files this Writ Petition, *inter alia* seeking to assail the impugned demand dated 7-4-1994 towards back billing. The case of the petitioner, in brief, is that having regard to the inspection made on 24-7-1991 on the allegation of pilferage, a provisional assessment was made on 18-10-1991 demanding Rs.30,386-45 paise. However, in pursuance of the orders passed by this Court in W.P.No.14110 of 1991, dated 30-10-1991 the petitioner was asked to pay Rs.7,500/-and to raise all the objections during the enquiry. In spite of the same, the present demand is being made on 23-3-1994. The petitioner gave reply to the letter dated 7-4-1994 denying all the allegations. Hence the Writ Petition.

Having considered the submissions made and also on perusal of the record, it is seen that the present demand of back billing is only in pursuance of the inspection made on 24-7-1991 and therefore, this demand of back billing can as well form part of the enquiry. While making final assessment orders the petitioner is permitted to raise all questions in the earlier orders dated 30-10-1991.

In the circumstances, the Writ Petition is accordingly allowed and the impugned demand is set aside. It is open for both sides to raise all the objections during the enquiry and the authorities shall pass final demand order after giving notice and opportunity to both sides, if not already given. No costs.

25-11-2004.

Hsd

That Rule Nisi has been absolute as above.

Witness Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Twenty Fifth day of November Two Thousand and Four.

Asst.Registrar

To

1.The Assistant Divisional Engineer,

Operation,APSEB, Ponnur, Guntur district.

2. 2 CD copies.